UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	**Scheduling Order**
Manning, Bradley E.	)	
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	
Joint Base Myer-Henderson Hall	)	**DATE: 20 December 2012**
Fort Myer, Virginia 22211	)	

1. The Court is currently scheduling Article 39(a) sessions with the following default schedule at the request of the parties: two weeks for parties to file motions; two weeks for parties to file responses; five days for parties to file replies; and one week for the Court to review all pleadings before the start of the motions hearing. The time for filing replies was added after the first Article 39(a) session on 15-16 March 2012 because the Court received reply briefs the day before that session, the parties desire to continue to file replies, and the Court requires time to consider them.

2. Scheduling dates and suspense dates are set forth below. This schedule was coordinated with the parties. The trial schedule will be reviewed and updated as necessary at each scheduled Article 39(a) session.

a. Immediate Action (21 February 2012 - 16 March 2012)

b. Legal Motions, excluding Evidentiary Issues (29 March 2012 - 26 April 2012)

c. Legal Motions (10 May 2012 - 8 June 2012)

d. Interim Pretrial Motions (2 June 2012 - 25 June 2012)

e. Pretrial Motions (7 June 2012 - 20 July 2012)

f. Pretrial Motions (20 July 2012 - 30 August 2012)

g. Pretrial Motions (24 August 2012 - 18 October 2012)

h. Pretrial Motions (26 September 2012 - 2 November 2012)

i. Pretrial Motions (19 October 2012 - 12 December 2012)

j. Pretrial Motions (16 November 2012 - 11 January 2013)

(A) Filing: 16 November 2012
(B) Response: 30 November 2012
(C) Reply: 12 December 2012
(D) Article 39(a): 8-11 January 2013

(1) **Additional Requests for Judicial Notice**

(2) **Motion *in Limine* (Motive)**

(3) **Government Response to Defense Interrogatories to Original Classification Authorities for Speedy Trial**

(A) Filing: 12 December 2012

(4) **Disclosure of RCM 914 Material (based on Supplemental Govt Witness List and Defense Witness List)**

(A) Date: 12 December 2012

(5) **Discussion of Storing all AEs in a Centralized Location**

(A) Filing: 10 January 2013

(6) **Defense Witness List Litigation**[1]

(A) Government Objection to Defense Witnesses (Initial and Supplemental): 16 November 2012

(B) Defense Motion to Compel Production: 23 November 2012

(C) Government Response: 12 December 2012

(D) Defense Reply: 17 December 2012

(7) **Government Motion *in Limine* (Over-classification)**

(A) Filing: 14 December 2012

(B) Response: 28 December 2012

(C) Reply: 4 January 2013

(8) **Government List of all Classified Information it intends to Request a Closed Session (Grunden)**

(A) Filing: 10 January 2013

(B) Response: 24 January 2013

(9) **Government Proposed Procedures for Closing Sessions (Grunden)**

(A) Filing: 10 January 2013

(B) Response: 24 January 2013

(10) **Notice of Government Objections to Defense Use of Classified Information and Government Proposed Alternatives to Defense Use of Classified Information**

(A) Filing: 10 January 2013

(B) Response (to proposed alternative): 24 January 2013

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[1] This includes litigating the defense expert witnesses listed on the 15 October 2012 filing. The filings will be made assuming that all charges will go forward as charged.

(11) **Notice of whether the Government will Request the Grunden Article 39(a) be an *in camera* Proceeding, in whole or in part, IAW MRE 505(i)**[2]

(A) Filing: 10 January 2013

(12) **Joint Proposal for Additional LIOs, if any**

(A) Filing: 11 January 2013

CALENDAR A - *If Defense files a motion to compel "OCA" testimony*

k. Pretrial Motions (28 December 2012 - 17 January 2013)

(A) Defense Filing: 28 December 2012
(B) Government Response: 11 January 2013
(C) Article 39(a): 16-17 January 2013

(1) **Defense Motion to Compel Witnesses (Based on "OCA" Interrogatories)**[3]

l. Pretrial Motions (5-8 February 2013)

(1) **Defense Motion for Speedy Trial, including Article 10 Argument, including any testimony of witnesses compelled based on the 17 January 2013 Article 39(a)**

(A) Article 39(a): 5-8 February 2013

(2) **Government Disclosure to Defense of any Alternatives of Classified Information in lieu of Closing the Courtroom**[4]

(A) Disclosure: 8 February 2013
(B) Response: 15 February 2013

m. Pretrial Motions (24 January 2013- 22 February 2013)

(A) Filing: 24 January 2013
(B) Response: 7 February 2013
(C) Reply: 12 February 2013
(D) Article 39(a): 19-22 February 2013

(1) **Providence Inquiry**

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[2] This Article 39(a) is currently scheduled to occur on either 19-22 February 2013 (Calendar A) or 5-8 February 2013 (Calendar B).

[3] If the Court does not compel testimony, then Calendar B shall be followed, and Speedy Trial oral argument will occur during this motions hearing.

[4] Alternatives include, but are not limited to stipulations; use of code words or special names; use of screens, disguises, and code names for classified witnesses; use of electronic imagery visible only to cleared trial participants and not the public; the "silent witness" rule; and syllabi or reference indexes.

(2) **Supplemental Government Witness List (if necessary)**
(A) Filing: 24 January 2013

(3) **Grunden Hearing for Government Classified Information**

(4) **Litigation Concerning MRE 505(h) and MRE 505(i) (if not previously resolved)**

(5) **Government Notification of Security Clearances for Defense Witnesses (if necessary)**
(A) Filing: 7 February 2013
(B) Response: 12 February 2013

n. <u>Pretrial Motions (1-15 March 2013)</u>

(A) Filing: 1 March 2013
(B) Response: 8 March 2013
(C) Article 39(a): 13-15 March 2013

(1) **Grunden Hearing for Defense Classified Information**

(2) **Completion of Security Clearance Checks for Witnesses (as necessary)**

(3) **Government Notice of Alternatives of Classified Information in lieu of Closing the Courtroom**
(A) Filing: 8 March 2013

o. <u>Trial by MJ Alone (18 March 2013 - 26 April 2013)</u>

Trial: 18 March 2013-26 April 2013

<u>CALENDAR B - *If Defense does NOT file a motion to compel "OCA" testimony*</u>

k. <u>Pretrial Motions (11 January 2013 - 17 January 2013)</u>

(1) **Defense Motion for Speedy Trial, including Article 10 (Argument Only)**
(A) Article 39(a): 16-17 January 2013

l. <u>Pretrial Motions (10 January 2013 - 8 February 2013)</u>

(A) Filing: 10 January 2013
(B) Response: 24 January 2013
(C) Reply: 29 January 2013
(D) Article 39(a): 5-8 February 2013

(1) **Providence Inquiry**

(2) **Supplemental Government Witness List (if necessary)**
(A) Filing: 10 January 2013

(3) **Grunden Hearing for Government Classified Information**

(4) **Litigation Concerning MRE 505(h) and MRE 505(i) (if not previously resolved)**

(5) **Government Notification of Security Clearances for Defense Witnesses (if necessary)**
(A) Filing: 24 January 2013
(B) Response: 29 January 2013

(6) **Government Disclosure to Defense of any Alternatives of Classified Information in lieu of Closing the Courtroom**[5]
(A) Disclosure: 8 February 2013
(B) Response: 15 February 2013

m. <u>Pretrial Motions (13 February 2012 - 1 March 2013)</u>

(A) Filing: 13 February 2013
(B) Response: 20 February 2013
(C) Article 39(a): 27 February - 1 March 2013

(1) **Grunden Hearing for Defense Classified Information**

(2) **Completion of Security Clearance Checks for Witnesses (as necessary)**

(3) **Government Notice of Alternatives of Classified Information in lieu of Closing the Courtroom**
(A) Filing: 20 February 2013

n. <u>Trial by MJ Alone (6 March 2013 - 17 April 2013)</u>

Trial: 6 March 2013 - 17 April 2013

So **Ordered** this 20th day of December 2012.

DENISE R. LIND
COL, JA
Chief Judge, 1st Judicial Circuit

[5] Alternatives include, but are not limited to stipulations; use of code words or special names; use of screens, disguises, and code names for classified witnesses; use of electronic imagery visible only to cleared trial participants and not the public; the "silent witness" rule; and syllabi or reference indexes.